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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/835,088 | 04/13/2001 | Gary Reding | 20697-301 | 2977 |

7590 05/27/2004

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| EXAMINER |
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DYE, RENA

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| ART UNIT | PAPER NUMBER |
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3627

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,088

Applicant(s)

REDING ET AL.

Examiner

Rena L. Dye

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 15-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date Z.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, Claims 1-4 and 5-14 in Paper No. 8 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 and 5-14 are rejected under 35 U.S.C. 103 as being anticipated by Ferstenberg et al. (US 5,873,071).

Ferstenberg et al. discloses an Internet based system for facilitating commercial transactions using software processes distributed on one or more computer systems that exchange messages in order to facility an intermediated exchange of financial commodities between a plurality of participants. The messages are exchanged according to a preferred protocol that leads to a satisfactory exchange that meets the objectives of the participants, and that substantially maximizes in a fair manner the total amount of financial commodities exchanged (Abstract).

According to the taught invention, e-agents negotiate an intermediated exchange through an intermediary computer program. E-agents, acting in conjunction with the intermediary,

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process data so as to substantially maximize a tradeoff between the amounts exchanged and the fairness of the exchange. An intermediary program constructed according to the invention acts to substantially maximize the aggregate number of units of commodities exchanged in a fair manner that is acceptable to the participants (column 3, lines 42-50).

The e-agents and intermediary use one or more software processes residing on one or more computers. When multiple computers are used, they are interconnected by a network. These processes carry out the general negotiation by exchanging offer and counter-offer messages over this network and/or using an inter-process messages mechanism. The invention is adapted to the exchange of financial commodities, including commodity futures, and other financial commodities (column 3, line 51 to column 4, line 3). For example, it can be applied to the exchange of tangible commodities such as agricultural, mineral, and manufacturing products, or exchange of intangible commodities such as contracts for the future exchange of tangible or intangible commodities (column 12, lines 23-34).

FIG. 4 also illustrates communication links to external data gateways. Since the intermediary of the preferred embodiment of this invention does not determine prices, this information is obtained from external sources that report prevailing commodity prices in markets acceptable to the electronic agents involved in an exchange. Thus, price data source 53 is linked to the intermediary computer 40 (column 17, lines 12-23).

Each participant is associated with at least one of the e-agent programs, and each e-agent storing in an associated electronic memory digital data representing commodity exchange objectives of its associated participant (column 4, lines 4-29).

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Since Ferstenberg et al. teaches an Internet based system using multiple computing subsystems for facilitating commercial transactions it would have been obvious to one having ordinary skill in the art at the time of the invention to have transmitting a web page to a producer of an agricultural commodity, wherein the web page includes the quantity of the commodity desire to be purchased by the intermediary, and further establishing a flat price for the commodity wherein the price is calculated by adding the basis provided by the intermediary from the current trading price obtained from the commodities exchange.

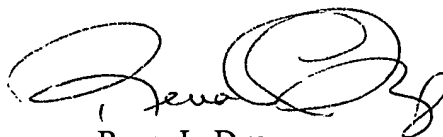
Although the reference does not expressly teach updating of information or a near real-time correlation, it would have been obvious to one having ordinary skill in the art at the time of the invention to have the most current data or trading prices available.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rena L. Dye whose telephone number is 703-308-4331. The examiner can normally be reached on Monday-Tuesday 8:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Rena L. Dye', with a stylized flourish at the end.

Rena L. Dye
Primary Examiner
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R. Dye
May 25, 2004